

e. Coordination of change of sanction. If the case is a significant case requiring coordination with AGC-200 under paragraph 1201b, any proposed change in sanction shall be coordinated with AGC-200 (Attn: AGC-260), to the extent provided in that paragraph.

f. Referral to U.S. Attorney.

(1) Civil penalty cases should be referred to the appropriate U.S. Attorney when legal counsel is unable to effect settlement, and the matter should not otherwise be closed. When required in the interest of aviation safety, the case may be referred directly to the U.S. Attorney without seeking settlement. In significant or complex cases, legal counsel shall coordinate with the Office of Chief Counsel prior to referral to a U.S. Attorney.

(2) In the letter of referral, counsel should refer to the United States Attorney Manual, Title 9, Section 9-76.100, in which the Department of Justice has issued instructions to U.S. Attorneys for the handling of FA Act civil penalty cases. In this reference, the Department authorized the FAA, including the Assistant Chief Counsel, to refer directly to the appropriate U.S. Attorneys to institute suit for the collection of civil penalties or to effect settlement of such matters in those instances where the amount of the settlement is acceptable to the FAA. The transmittal letter should also set out a summary of the facts, an analysis of the violations involved, a summary of action taken prior to referral, a statement of the amount which would be acceptable to the FAA in settlement, and any additional information necessary to give the U.S. Attorney full information with respect to the case. Counsel should forward, with the letter, a copy of the file on the case, including the violation report and any other available evidence. Counsel should prepare and include a draft of a complaint. See Figure 12-12. In the letter of referral, counsel should also offer assistance to the U.S. Attorney in the preparation or trial of the action.

(3) Amount sought in complaint. When a case is referred to the U.S. Attorney, it is necessary for all regulations believed violated to be cited in any complaint. The dollar amount sought in the complaint need not be limited to the amount sought in the civil penalty letter. If the amount sought in the complaint is significantly greater than the amount sought in the civil penalty letter, coordinate with AGC-200 (Attn: AGC-260).

(4) Following initial referral of a civil penalty case to a U.S. Attorney, counsel should conduct periodic followup inquiries for the purpose of obtaining current information on the status of the case and to remind the U.S. Attorney of our continuing interest in the matter. Copies of all pleadings filed by the parties should be requested.

(5) In those cases where the U.S. Attorney is unable to effect a settlement, and a complaint has been filed, counsel should again volunteer assistance in preparation for trial. Experience has shown that U.S. Attorneys are generally grateful to receive such assistance in view of the burden of their other duties and their unfamiliarity with the FAR and the technical aspects of aviation matters. In view of the fact that relatively few civil

penalty cases are litigated in the Federal courts, it is essential that they are handled properly, in order to avoid unfortunate precedent-making decisions resulting from a misunderstanding of a case on the part of the court or the U.S. Attorney handling the case.

(6) In those instances in which a U.S. Attorney declines to institute suit, legal counsel will ordinarily be given a statement of the reasons. If counsel disagrees, counsel should consult further with the U.S. Attorney, either in writing or by personal conference. If counsel ultimately is unable to persuade the U.S. Attorney to take action and believes the decision to be erroneous, the matter should then be referred to the Office of the Chief Counsel for discussions with the Department of Justice.

(7) Cases may arise in which the U.S. Attorney either fails to proceed with the case on a timely basis or indicates a general unwillingness to handle the case without formally declining to prosecute. The Civil Division of the Justice Department has agreed to a procedure for handling such cases, as well as cases where prosecution is formally declined. If the Assistant Chief Counsel determines that it is necessary to institute suit in such cases, he or she shall promptly advise the Chief Counsel (Attn.: AGC-200) of the merits of the case, the need for prosecution, and the nature of the problem encountered with the U.S. Attorney's office. The Office of the Chief Counsel will then obtain from the Civil Division an authorization to institute suit. A copy of this authorization will be telexed to the U.S. Attorney by the Civil Division, whereupon the Assistant Chief Counsel may file the complaint directly with the clerk of the appropriate district court. This procedure should also be followed in cases where it is necessary to simultaneously file complaints in several jurisdictions. Where time is critical, all of the above actions should be accomplished by telephone. Before initiating this procedure, the appropriate U.S. Attorney's office should be advised of the action being taken.

1205. CIVIL PENALTY ACTION UNDER THE FEDERAL AVIATION ACT INVOLVING AN AMOUNT IN CONTROVERSY NOT EXCEEDING \$50,000.

a. General. In most cases in which the amount in controversy does not exceed \$50,000, the case is processed in accordance with the Civil Penalty Assessment Demonstration Program, Section 905 of the FA Act, as amended, and Section 13.16 of the FAR. Under this program the FAA may assess civil penalties after affording the alleged violator notice and an opportunity to be heard. The opportunity to be heard is provided by an opportunity for a hearing before an administrative law judge. After the civil penalty is assessed under this program, if necessary, the penalty may be collected through proceedings in the appropriate U.S. District Court.

b. Initial civil penalty action.

(1) Notice of Proposed Civil Penalty. A civil penalty action is initiated by issuing a Notice of Proposed Civil Penalty pursuant to the procedures in Section 13.16 of the FAR. See Figure 12-13. The Notice shall be issued by an official authorized in FAR 13.19, or by an attorney who has

appropriate delegation and is signing with a by-line under the name and title of such official. If the Notice is to be signed by an attorney other than an official designated in FAR 13.19, a written delegation authorizing the attorney to sign Notices should be sent to AGC-200.

A. The Notice should set forth the facts alleged, the regulation(s) violated, and the action proposed. The Notice should contain a statement showing how the facts constituted a violation of the cited regulation(s).

B. The facts should be set forth in sufficient detail so that the alleged violator can know and understand the charges.

C. The penalty proposed must be stated specifically. It may not be stated in the alternative.

(2) Attachments to the Notice. An information sheet, a reply form, and FAR 13.16 and Part 13, Subpart G, should be sent with the Notice. In the information sheet, which may be a printed form, the alleged violator is advised of the alternatives to be taken in response to the Notice. See Figure 12-14. The alleged violator is given the opportunity to elect one of the alternatives listed. On the reply form the alleged violator may indicate that election. See Figure 12-15. Alternative 1 is to pay the proposed civil penalty. Alternative 2 is to submit information or material in answer to the charges. Alternative 3 is to propose to reduce the civil penalty for specified reasons. Alternative 4 is to request an informal conference with legal counsel. Alternative 5 is to claim entitlement to waiver of penalty under the ASRP. Alternative 6 is to request a hearing.

(3) Language. It should be noted that the Notice promises to assess a civil penalty in a specific amount, rather than suggest a compromise offer.

(4) Service. The Notice should be sent by certified mail, return receipt requested, or by personal delivery.

c. Informal procedures. In cases under the Civil Penalty Demonstration Program, FAR 13.16(f) provides an opportunity for a person to participate in informal procedures, by submitting additional information, participating in an informal conference with an FAA attorney, or both. The provisions in paragraph 1208 apply.

After any information in defense or mitigation of charges in a Notice has been submitted to the FAA, the alleged violator shall be informed of the FAA decision as to whether any change in the proposed charges or sanction set out in the Notice will be made as a result of such information. Any information submitted by the alleged violator is evaluated for possible dismissal of proposed charges or reduction of proposed sanction, rather than for a compromise settlement. This interim reply to the alleged violator must be made prior to the issuance of an order. The alleged violator has 10 days after receipt of such reply to submit additional information or to request a hearing. (See, FAR 13.16(g)).

If additional information is submitted in response to the interim reply, counsel shall evaluate it to determine whether any change in the proposed findings of fact or of violations is warranted. If civil penalty action continues to be appropriate, a second interim reply shall be sent informing the alleged violator of this determination, and stating that the alleged violator has 10 days after receipt of the reply to request a hearing. No additional opportunity ordinarily need be given for submission of additional information.

d. Coordination of change of sanction. If the case is a significant case requiring coordination with AGC-200 under paragraph 1201b, any proposed change in sanction shall be coordinated with AGC-200 (Attn: AGC-260), to the extent provided in that paragraph.

e. Order of Civil Penalty. When a person who has received a Notice of Proposed Civil Penalty submits a written request for a hearing to the FAA attorney, the attorney shall issue an Order of Civil Penalty to the alleged violator. See Figure 12-16.

f. Order Assessing Civil Penalty.

(1) The Order Assessing Civil Penalty orders the payment of the specified penalty regardless of whether payment of such penalty has been received by the FAA. An Order Assessing Civil Penalty is issued in five situations (see Figure 12-17):

A. When the person charged with the violation submits the proposed civil penalty. Receipt of the amount shall be acknowledged in the Order.

B. When the person charged with a violation does not respond within 30 days from their receipt of the Notice of Proposed Civil Penalty.

C. When the person charged with a violation does not respond within 10 days from the receipt of an interim reply (including a second interim reply) from legal counsel or within 10 days of the informal conference if no agreement is reached at an informal conference.

D. When the person charged with a violation does not comply with any agreement reached between the parties during the informal conference.

E. When the person charged with a violation does not file an Answer to the Order of Civil Penalty or a motion pursuant to FAR 13.218(f) (1-4) within 30 days after service of the Order.

(2) After a hearing, if the administrative law judge affirms or modifies the Order of Civil Penalty, it becomes an Order Assessing Civil Penalty. See FAR 13.232(d).

g. Appeals.

(1) Hearings. When a hearing is requested, legal counsel shall file a copy of the Order of Civil Penalty, which will serve as the Complaint, on the hearing docket clerk not later than 20 days after receipt of the request. A copy of the request for hearing and a suggested location for the hearing must be attached to the Complaint. Any hearing will be held in accordance with the Rules of Practice in FAA Civil Penalty Actions in Subpart G of FAR Part 13. The administrative law judge will issue an initial decision and may affirm, modify, or reverse the Order of Civil Penalty.

(2) Appeals to the FAA decisionmaker. An initial decision issued by an administrative law judge may be appealed to the FAA decisionmaker, by either party, within 10 days after an oral decision is entered on the record or a written decision is served on the parties. Each party has an opportunity to submit an appeal brief, or reply brief, as appropriate. The FAA decisionmaker's decision and order is the final FAA order in the case. This decision may be appealed by the violator to the U.S. courts of appeals in accordance with Section 1006 of the FA Act.

h. Collection of assessed civil penalties. When an assessed civil penalty is not paid within 60 days after service of the order assessing it, Section 903 of the FA Act authorizes the FAA to refer the case to the Attorney General for action in U.S. district court to collect the penalty. A civil penalty has been assessed for these purposes when (1) an Order Assessing Civil Penalty is issued, (2) when, after a hearing, the ALJ's decision affirms or modifies the Order of Civil Penalty (see FAR 13.232(d)), or (3) when the FAA decisionmaker affirms or modifies the Order Assessing Civil Penalty.

(1) Referrals should be made directly to the appropriate U.S. Attorney.

(2) Pursuant to Section 905 of the FA Act, an action in U.S. district court to collect a civil penalty does not involve a de novo hearing on the issue of liability or amount of a civil penalty. The penalty has already been assessed by adjudicatory process before the FAA, pursuant to statutory procedures, which included either a formal evidentiary hearing or the opportunity for such hearing. Therefore, the U.S. Attorney should be requested to file an action for a judgment based on the order which assessed a civil penalty.

i. Settlement of civil penalties. The FAA attorney may settle any civil penalty which has been assessed any time before referring the Order Assessing Civil Penalty to the U.S. Attorney for collection. Since findings of violations of the FA Act must be made in the Order, any settlement involves only the amount of the penalty and does not affect the finding of violations.

1206. CIVIL PENALTY ACTIONS UNDER THE HAZARDOUS MATERIALS TRANSPORTATION ACT
(SECTION 110 (a)).

a. General.

(1) Section 110(a) of the Hazardous Materials Transportation Act (49 U.S.C. 1809) (HMT Act) provides for civil penalties of not more than \$10,000 for each violation of the HMT Act or the Hazardous Materials Regulations (HMR). The civil penalty provision applies only to a person who has "knowingly" committed an act which is a violation. Under Section 110(a), the FAA is not required to establish that the alleged violator knew his actions constituted a violation of the HMR. On the contrary, the term "knowingly" refers to "knowingly commits an act". Therefore, knowledge of the contents of the shipment and the fact that such contents are hazardous are all that is required. Section 110(a) authorizes the Secretary of Transportation to assess a civil penalty, after notice and an opportunity for a hearing has been given to the alleged violator.

(2) Section 110(b) of the HMT Act provides for criminal penalties when willful violations of the HMT Act or the HMR are involved (see paragraph 1212, Legal Action Involving Criminal Violations). Under Section 110(b), a violation will be considered to be "willful" if an alleged violator, who has knowledge of the contents of the shipment and knows the requirements of the HMT, intentionally fails to comply.

(3) The Secretary's enforcement responsibilities involving the transportation of hazardous materials by air have been delegated to the Administrator of the FAA (see Appendix 2). Legal enforcement actions for violations of the Hazardous Materials Regulations are handled, within the FAA, by the Office of the Chief Counsel, Regulations and Enforcement Division, AGC-200.

b. Determining the type of enforcement action and sanction required.

Upon receipt of an Enforcement Investigative Report, counsel should review the file to determine the sufficiency of evidence to establish the violations alleged and, after considering recommendations of the regional division, determine whether criminal prosecution, civil penalty action, or the issuance of an order of compliance is the appropriate action.

(1) If the evidence warrants criminal prosecution, such action should take priority over any other form of enforcement action, except one involving an order of immediate compliance, or other action to immediately address a safety problem.

(2) AGC-200 has the final authority to determine the amount of a civil penalty to be proposed in a particular case, and the amount of the penalty finally assessed (except when a formal hearing is held), after considering any comments and recommendations of the appropriate regional division with reference to such sanction.

c. Initial civil penalty action.

(1) Notice of Proposed Civil Penalty. A civil penalty action against a person who knowingly offered or accepted a hazardous material for transportation by air in violation of the HMR is initiated by issuing a Notice of Proposed Civil Penalty pursuant to the procedures in FAR 13.16. (See, Sample Notice of Proposed Civil Penalty, Figure 12-18).

(2) Attachments to the Notice. An information sheet, a reply form, and FAR 13.16 and Part 13, Subpart G, should be sent with the Notice. In the information sheet, which may be a printed form, the alleged violator is advised of the alternatives to be taken in response to the Notice. See Figure 12-19. The alleged violator is given the opportunity to elect one of the alternatives listed. On the reply form the alleged violator may indicate that election. See Figure 12-20. Alternative 1 is to pay the proposed civil penalty. Alternative 2 is to submit information or material in answer to the charges. Alternative 3 is to propose to reduce the civil penalty for specified reasons. Alternative 4 is to request an informal conference with legal counsel. Alternative 5 is to request a hearing.

(3) Language. It should be noted that the notice proposes to assess a civil penalty in a specific amount, rather than suggest a compromise offer.

(4) Service. The Notice should be sent by certified mail, return receipt requested, or by personal delivery.

d. Informal procedures. In these cases, section 13.16 (f) provides an opportunity for a person to participate in informal procedures, by submitting additional information, requesting to participate in an informal conference with an FAA attorney, or both. The provisions in paragraph 1208 apply.

After an informal conference has been held, or after any information in defense or mitigation of charges in a Notice has been submitted to FAA, the alleged violator shall be informed of the FAA decision as to whether any change in the proposed charges or sanction set out in the notice will be made as a result of such information. (Any information submitted by the alleged violator is evaluated for possible dismissal of proposed charges or reduction of proposed sanction, rather than for a compromise settlement.) This interim reply to the alleged violator must be made prior to the issuance of an order. The alleged violator has 10 days after receipt of such reply to submit additional information or to request a hearing. See FAR 13.16(g).

If additional information is submitted in response to the interim reply, counsel shall evaluate it to determine whether any change in the proposed findings of fact or of violations is warranted. If civil penalty action continues to be appropriate, a second interim reply shall be sent informing the alleged violator of this determination. The alleged violator will have 10 days after receipt of the reply to request a hearing. No additional opportunity ordinarily need be given for submission of additional information.

e. Order of Civil Penalty. When a person who has received a Notice Proposed Civil Penalty submits a written request for a hearing to the FAA attorney, the attorney shall issue an Order of Civil Penalty to the alleged violator. See Figure 12-21.

f. Orders Assessing Civil Penalty.

(1) The Order Assessing Civil Penalty shall order the payment of the specified penalty regardless of whether payment of such penalty has been received by the FAA. An Order Assessing Civil Penalty is issued in five situations (see Figure 12-22):

A. When the person charged with the violation submits the proposed civil penalty. Receipt of the amount shall be acknowledged in the order.

B. When the person charged with a violation does not respond within 30 days from their receipt of the Notice of Proposed Civil Penalty.

C. When the person charged with a violation does not respond within 10 days from the receipt of an interim reply (including a second interim reply) from legal counsel or within 10 days of the informal conference if no agreement is reached at an informal conference.

D. When the person charged with a violation does not comply with any agreement reached between the parties during the informal conference.

E. When the person charged with a violation does not file an Answer to the Order of Civil Penalty or a motion pursuant to Section 13.218(f) (1-4) within 30 days after service of the Order.

(2) After a hearing, if the administrative law judge affirms or modifies the Order, it becomes an Order Assessing Civil Penalty. See, FAR 13.232(d).

g. Appeals.

(1) Hearings. When a hearing is requested, legal counsel shall file a copy of the order of Civil Penalty, which will serve as the complaint, on the hearing docket clerk not later than 20 days after receipt of the request. A copy of the request for hearing and a suggested location for the hearing must be attached to the complaint. Any hearing will be held in accordance with the Rules of Practice in FAA Civil Penalty Actions in Subpart G of FAR Part 13.

(2) Appeals to the FAA decisionmaker. An initial decision issued by an administrative law judge may be appealed to the FAA decisionmaker by either party, within 10 days after an oral decision is entered on the record or a written decision is served on the parties. Each party has an opportunity to submit an appeal brief, or reply brief, as appropriate. The FAA decisionmaker's decision and order is the final FAA order in the case, and may be appealed to the U.S. courts of appeal under Section 1006 of the FA Ac

h. Collection of assessed civil penalties. When an assessed civil penalty is not paid within 60 days after service of the order assessing it, Section 903 of the FA Act authorizes the FAA to refer the case to the Attorney General for action in U.S. district court to collect the penalty. A civil penalty has been assessed for this purpose when an Order Assessing Civil Penalty is issued, when after a hearing, the ALJ's decision affirms or modifies the Order of Civil Penalty (see FAR 13.232(d)), or when the FAA decisionmaker affirms or modifies the Order Assessing Civil Penalty.

(1) Referrals should be made directly to the appropriate U.S. Attorney.

(2) It is the FAA position that action in U.S. district court to collect a civil penalty does not involve a de novo hearing because the penalty has already been assessed by adjudicatory process before the FAA, pursuant to statutory procedures, which included either a formal evidentiary hearing or the opportunity for such hearing. Therefore, the U.S. Attorney should be requested to file an action for a judgment based on the FAA order which assessed a civil penalty.

i. Settlement of civil penalties. Section 110(a) of the HMT Act provides that a civil penalty assessed under that section may be settled prior to referral to the Attorney General for collection. Therefore, any settlement is negotiated only after an order assessing a civil penalty has been issued and the penalty appears to be uncollectable. Also, since findings of violations of the HMR were made in the order, any settlement involves only the amount of the penalty and does not absolve liability for the violations.

*1207. INFORMAL CONFERENCES.

a. Purpose and Policy.

(1) The informal conference provides an alleged violator with an opportunity to be heard as required by 49 U.S.C. §§ 44709, 44710, and 46301 (1994) and 14 C.F.R. §§ 13.16(d) and 13.19(c). Except in emergency cases, the FAA must provide an opportunity for an informal conference before issuing an order of suspension or revocation, or an order of assessment or a final notice of proposed civil penalty.

(2) The alleged violator has an opportunity at the informal conference to speak to an FAA attorney directly and to present evidence or information in response to the proposed enforcement action. The FAA attorney evaluates any new information obtained at the informal conference in accordance with paragraph 1202(e) of this order.

(3) The FAA does not use the informal conference to gather additional evidence or admissions to prove the charges in the enforcement action. However, the FAA may use any information revealed by the alleged violator for impeachment purposes if the alleged violator makes a contrary statement regarding a material fact in subsequent proceedings.

b. Procedure.

(1) The FAA attempts to hold informal conferences within 90 days of receiving the request for informal conference.

(2) Informal conferences are scheduled and held by FAA attorneys. The FAA attorney asks the program office that processed the EIR to assign a representative to attend the conference, if practicable. The FAA attorney may

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conduct the conference even if a program office representative is not present.

(3) Ordinarily, the FAA holds the informal conference either by telephone or in person at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters, Washington, DC.

(4) In the limited circumstances described below, FAA attorneys, in the exercise of their discretion, may schedule an in-person informal conference at a location other than those listed in paragraph 1207b(3) at the request, or with the agreement, of the alleged violator. An FAA attorney may exercise such discretion when because of unusual circumstances, the public interest is better served by holding an in-person informal conference at a location other than those listed in paragraph 1207b(3). An FAA attorney also may exercise such discretion when an in-person informal conference can be scheduled to coincide with other previously scheduled business and can be held within approximately 90 days from the date the alleged violator requests the informal conference.

(5) When, at the alleged violator's request, the FAA attorney schedules an informal conference at a location other than those listed in paragraph 1207b(3), the FAA attorney advises the alleged violator that if the alleged violator fails to attend the informal conference, a rescheduled conference, if any, might be available only at one of the offices listed in paragraph 1207b(3) or by telephone.

(6) An alleged violator may request that an in-person informal conference be held at an office designated in paragraph 1207b(3) other than the office that issued the notice proposing the enforcement action (hereafter referred

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to in this subparagraph as "the initiating office."). When this occurs, the initiating office ordinarily transfers the case to the office requested by the alleged violator for full disposition and handling in accordance with the guidance set forth in paragraph 208(e) of this order, if (1) a transfer is in the public interest, and (2) the transfer will be more convenient to the alleged violator's domicile or place of business. When these conditions are not present, the initiating office transfers the case for purposes of the informal conference only; and the office receiving the case for purposes of the informal conference consults and coordinates with the initiating office before settling or otherwise disposing of the case at the informal conference. In those cases transferred to another office for purposes of the informal conference only, the receiving office returns the file to the initiating office as soon as practicable after the informal conference has been held.

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1208. SEIZURE OF AIRCRAFT UNDER THE FEDERAL AVIATION ACT (SECTION 903(B)).

a. Seizure to collect civil penalty. Section 903(b) of the FAAct and FAR 13.17 provide for seizure of an aircraft involved in a violation when the violation is by the owner or person in command and such violator is known to have insufficient assets, other than the aircraft concerned to compromise the civil penalty or to satisfy a court judgment assessing the civil penalty (see paragraph 206d.(1)). Because the constitutionality of these statutory and regulatory provisions have been interpreted differently by different courts, seizure of an aircraft should be done only in instances where the violation is particularly egregious, e.g., use of the aircraft in a continuing violation. Note that in rem actions are excluded from the Civil Penalty Demonstration Program under Section 905(c)(2) and (3) of the FAAct.

b. Issuance of civil penalty letter. An aircraft may be seized after a civil penalty letter is issued or when the issuance of such letter is contemplated. In the latter case, if immediate action is essential, it is not absolutely necessary that a civil penalty letter be issued since the written notice of seizure to the registered owner of the aircraft serves to advise the owner of the violations committed and the liabilities incurred. If the aircraft is seized after a district court assesses a civil penalty, a civil penalty letter need not be issued.

c. Coordination. Coordination with headquarters is required before an Assistant Chief Counsel issues an order of Seizure, see paragraph 1201b(3).

d. Person seizing aircraft. Seizure under Section 903(b) of the FA Act may be made by a State or Federal law enforcement officer or by an FAA safety inspector, if authorized to do so in an Order of Seizure issued by the Administrator, or by the Chief Counsel, or an Assistant Chief Counsel.

e. Order of Seizure.

(1) An Order of Seizure may be issued by the Administrator, the Chief Counsel, or an Assistant Chief Counsel. See Figure 12-23.

(2) The Order of Seizure shall be directed to the person ordered to seize the aircraft. It shall be signed by a person identified in (1). The order shall --

A. Include the finding that the aircraft has been involved in one or more violations of the FAR:

B. Properly identify the aircraft by type and number;

C. Identify the registered owner of the aircraft by name and address; and

D. State that the aircraft is subject to a lien by reason of the violations described.

(3) The Order shall order that the aircraft be seized and placed in the nearest available public storage facility within the judicial district in which seizure is made.

(4) If the aircraft is seized after a district court assesses a civil penalty, the form of the order of seizure shall reflect the fact that a judgment was issued against the owner or person in command for a violation in which the aircraft was involved. (An aircraft may not be seized under Section 903(b) of the FA Act unless it was itself involved in the violation for which the civil penalty is incurred.)

(5) The order shall designate the person seizing the aircraft, or other appropriate person, as its custodian.

f. Procedure. These procedures are for guidance of FAA personnel in seizing aircraft. They are not intended to be all inclusive or applicable to each situation. In each instance, legal counsel should be consulted for guidance. Upon receipt of an Order of Seizure, the person directed to seize an aircraft should proceed as follows:

(1) Take appropriate steps to locate the aircraft. This should be done discretely so as not to alert the owner of the impending seizure in order to avoid movement of the aircraft from the jurisdiction of the court or to

avoid hostile or violent acts by the owner of the aircraft when seizure is undertaken.

(2) Take possession of the aircraft as soon as possible and place it in the nearest public storage facility in the judicial district where it was seized. Logistics will provide necessary advice and assistance in obtaining such public storage.

(3) If the aircraft is known to be in a hangar, arrangements should be made for access to the hangar. If it appears that access cannot be obtained voluntarily, legal counsel should be consulted regarding authorization to enter the hangar.

(4) Once access is made to the aircraft an inventory immediately should be made of all equipment, including avionics, and other property on board. Any damage should be specifically documented. If possible, detailed color photographs should be taken. (Due to difficulty in reproducing the pictures, Polaroid or similar cameras should not be used if practicable.)

(5) Once the aircraft has been seized and the aircraft placed in storage, copies of the Notice of Seizure (see paragraph 1209 f) should be placed on the aircraft on or near each door and elsewhere so they are visible from all sides. Additionally, the aircraft should be physically restrained from moving. This may be done by wrapping a locked chain in a figure 8 around the propeller, if any, or by locking the chain from the airplane to a tie down. If the airplane is in a single hangar, the door should be padlocked and a Notice of Seizure placed on the hangar door.

(6) Appropriate arrangements should be made for the preservation of the aircraft.

(7) Immediately upon seizing the aircraft, notify the Assistant Chief Counsel by telephone.

(8) Appropriate arrangements should be made to permit the owner or operator to dispose of cargo on the aircraft.

(9) When an aircraft is released from seizure, the owner should be requested to inspect the aircraft and sign a release. Any damage he claims occurred during the period of seizure should be documented.

(10) Immediately upon release of the aircraft, the Assistant Chief Counsel should be notified. The release signed by the owner should be mailed to the Assistant Chief Counsel by certified mail.

g. Notice to the registered owner.

(1) Concurrently with the issuance of the order of seizure, or immediately thereafter, a written Notice of Seizure (see Figure 12-24) and a copy of Section 13.17 of the FAR, shall be sent by certified mail to the registered owner of the seized aircraft, and to each person shown by FAA records to have an interest in the seized aircraft.

(2) The Notice shall state --

A. The time, date, and place of seizure;

B. The name and address of the custodian of the aircraft;

C. The reasons for the seizure, including the violations believed or judicially determined to have been committed; and

D. The amount that may be tendered as a compromise of a civil penalty or payment of a civil penalty assessed by a district court.

(3) The amount shall include the costs of seizure, storage, and maintenance.

(4) If the aircraft was seized after a district court had assessed a civil penalty, the form of the notice of seizure to the registered owner shall be changed appropriately and a copy of the judgment shall be attached to it.

h. Judicial proceedings. Concurrently with the issuance of the Order of Seizure, legal counsel should report by telephone to the U.S. Attorney for the district in which the aircraft is being seized and shall thereafter send a written report requesting the initiation of proceedings to enforce a lien against the seized aircraft. A copy of the Notice of Seizure should be included in the report to the U.S. Attorney. See Figure 12-25. If the aircraft is being seized prior to the institution of an action to collect a civil penalty, a draft libel should also be sent to the U.S. Attorney.

i. Release of seized aircraft.

(1) An order releasing a seized aircraft shall be issued by the person who ordered the aircraft seized, whenever --

A. The registered owner or other violator pays a civil penalty compromise or assessment and the costs of seizure, storage, and maintenance of the aircraft;

B. The aircraft is seized under an order of a Federal district court in proceedings in rem to enforce a lien against the aircraft;

C. The U.S. Attorney notifies the FAA of a refusal to institute such proceedings; or

D. A bond in the amount and with the sureties prescribed by the FAA and the district court having jurisdiction of the action is deposited, conditioned on payment of the civil penalty or the compromise amount, and the costs of seizure, storage, and maintenance of the aircraft.

(2) Copies of the order of release shall be sent to all those to whom Notice of Seizure was given and to the U.S. Attorney.

(3) Release should be carried out by the FAA employee who seized the aircraft, or who is responsible for storing it, or other appropriate person.

j. Assistance by Office of the Chief Counsel. Whenever a situation arises in connection with the seizure of an aircraft not covered by the foregoing provisions, the Assistant Chief Counsel shall consult with the Assistant Chief Counsel for the Regulations and Enforcement Division.

1209. ORDERS OF COMPLIANCE, CEASE AND DESIST ORDERS, ORDERS OF DENIAL, AND OTHER ORDERS UNDER THE FEDERAL AVIATION ACT AND THE AIRPORT AND AIRWAY DEVELOPMENT ACT.

a. Authority. In performing duties and responsibilities under the FA Act, the Administrator has the authority to issue orders other than those prescribed by Sections 602 and 609. See Section 313a of FA Act. These include orders of compliance, cease and desist orders, orders of denial of FAA certificates (other than airman certificates), other orders issued pursuant to Title III, and orders authorized by the Airport and Airway Development Act of 1970. These orders may be judicially enforced under Section 1007 of the FA Act. When appropriate, the Administrator's emergency authority under Section 1005(a) may be used in the issuance of such orders.

b. Procedures. Such orders may be issued by the Chief Counsel, the Deputy Chief Counsel, and each Assistant Chief Counsel pursuant to the procedures set forth in Section 13.20 of the FAR. These procedures provide for notice to the person subject to the proposed order and the opportunity for a formal hearing under Subpart D of FAR Part 13 prior to the issuance of an order, except in emergency cases. In addition, these procedures provide for an appeal to the Administrator of orders issued by a hearing officer who, after review may issue a final FAA order.

1210. INJUNCTION ACTIONS UNDER THE FEDERAL AVIATION ACT (SECTION 1007).

a. General. Section 1007 of the FA Act grants jurisdiction to the district courts of the United States to enforce obedience to any provision of the FA Act, or any rule, regulation, requirement, or order promulgated thereunder, or any term, condition, or limitation of any certificate or permit issued under the FA Act, by the issuance of injunction or other process, mandatory or otherwise, restraining the violator from further violations. Section 1007 further authorizes any U.S. Attorney, upon the request of the Administrator, to institute in the proper court, proceedings for the enforcement of such provisions, terms, conditions, or limitations and for the punishment of all violations thereof.

b. Responsibility of legal counsel. In carrying out the Administrator's enforcement program, legal counsel has the responsibility for using all available legal procedures which may be required for aviation safety and the public interest. FAA requests for injunction actions, for example, may be made in situations where an airman knowingly continues to operate an aircraft without the appropriate certificate, in violation of the FAR. In

such cases, where FAA legal enforcement actions have failed to deter violations, legal counsel should make appropriate referrals for initiation of injunction proceedings.

c. Referral procedures. The Assistant Chief Counsel should refer requests for injunctions to the U.S. Attorney in the proper judicial district. In appropriate cases, requests for injunctions may accompany a referral to the U.S. Attorney for judicial action to collect civil penalties. Cases not involving civil penalty proceedings should be referred with a statement of the specific reasons for seeking an injunction. While the U.S. Attorneys have been authorized to accept injunction requests directly from the Assistant Chief Counsel, rather than through the Department of Justice, they have not been delegated authority to obtain injunctions without prior approval by the Civil Division, Department of Justice, when the case does not involve a civil penalty under Section 901 of the FA Act. In such cases, a copy of legal counsel's referral letter to the U.S. Attorney, including a copy of any attachments, should be transmitted to the Assistant Attorney General, Civil Division, Department of Justice, Washington, D.C. 20530, who will decide whether to authorize the U.S. Attorney to seek an injunction. The Assistant Chief Counsel should offer to assist in the preparation and trial of the case.

1211. ORDERS OF COMPLIANCE UNDER THE HAZARDOUS MATERIALS TRANSPORTATION ACT (SECTION 109).

a. General. Section 109 of the HMT Act authorizes the Secretary to issue orders, after notice and an opportunity for a hearing, directing compliance with the HMT Act or the Hazardous Materials Regulations (HMR). Subpart E of FAR Part 13 prescribes procedures for issuance of orders of compliance.

b. Issuance of order. The Assistant Chief Counsel should, in appropriate situations, proceed in accordance with FAR Part 13, which prescribes procedures for the following:

- (1) Issuing notice of proposed order of compliance.
- (2) Conducting formal hearings, when requested (see Subpart D of FAR Part 13).
- (3) Issuance of order of compliance, without formal hearing and after formal hearing.
- (4) Issuance of consent order of compliance.
- (5) Appeals to the Administrator from an order of compliance issued after formal hearing.

1212. ORDERS OF IMMEDIATE COMPLIANCE UNDER THE HAZARDOUS MATERIALS
TRANSPORTATION ACT.

a. General. The Assistant Chief Counsel, with appropriate delegation of authority (see FAR 13.81), may issue an order of immediate compliance when it is determined that --

(1) There is strong probability that a violation is occurring or is about to occur;

(2) The violation poses a substantial risk to health or to safety of life or property; and

(3) The public interest requires the avoidance or amelioration of that risk through immediate compliance and waiver of the procedures afforded under FAR 13.73 through 13.79.

b. Issuance of order.

(1) An order of immediate compliance, when appropriate, should be issued pursuant to procedures in FAR 13.81.

(2) The order is effective immediately upon issuance.

(3) While a formal hearing, upon request, may be held in accordance with Subpart D of FAR Part 13 (on an expedited basis), the filing of a request for hearing does not stay the effectiveness of the order of immediate compliance.

(4) The order issued by a hearing officer may be appealed to the Administrator as provided in FAR 13.83.

(5) The official who issued the order of immediate compliance may request the U.S. Attorney to bring action to enforce the order.

(6) When the case also involves possible criminal violations, issuance of the order should be coordinated with the U.S. Attorney who would handle the criminal case (see paragraph 1215).

1213. INJUNCTIONS UNDER THE HAZARDOUS MATERIALS TRANSPORTATION ACT (SECTION 111).

a. General. Section 111 of the HMT Act authorizes the Attorney General, at the request of the Secretary, to bring actions in U.S. district court for equitable relief, including mandatory or prohibitive injunctions where violations of the HMT Act or Hazardous Materials Regulations are involved.

(1) When the Secretary has reason to believe that an "imminent hazard" involving the transportation of a hazardous material exists, the Secretary may petition (or may request the Attorney General to petition) the

U.S. district court for an order to restrict such transportation or to eliminate the imminent hazard.

(2) An imminent hazard exists, "if there is substantial likelihood that serious harm will occur prior to the completion of an administrative hearing or other formal proceeding initiated to abate the risk of such harm."

b. Responsibility and procedure for injunctive action. When it is determined that there is a basis for injunctive action, legal counsel, authorized by FAR 13.25, should request the U.S. Attorney to bring an action in U.S. district court for appropriate relief.

(1) If an imminent hazard is involved, legal counsel may bring, or request the U.S. Attorney to bring, an action in U.S. district court for an order to restrict such transportation of a hazardous material by air or to eliminate the hazard.

(2) When a request is made to a U.S. Attorney for court action, legal counsel should inform the U.S. Attorney of all pertinent information available to the FAA.

(3) A copy of the referral letter to the U.S. Attorney, including a copy of any attachments, shall be transmitted to the Assistant Attorney General, Civil Division, Department of Justice, Washington, D.C. 20530. Legal counsel should offer to assist in the preparation and trial of the case.

1214. LEGAL ACTION INVOLVING CRIMINAL VIOLATIONS (ALL CASES).

a. General. Chapter 6 (Criminal Investigations) lists, or refers to, criminal statutes, including those in the Federal Aviation Act, the Hazardous Materials Transportation Act, and the Airport and Airway Development Act, that are within the investigatory jurisdiction of the FAA or other Federal department or agency. The Department of Justice, through its U.S. Attorneys, has the responsibility for prosecution of all such cases.

b. Action by FAA counsel. It is the responsibility of legal counsel to participate in the handling of criminal cases being investigated or processed by FAA as follows:

(1) During FAA investigation. In cases investigated by the FAA, the investigator may need legal guidance and counseling to avoid any action that could prejudice criminal prosecution of the case. The investigator may need advice of legal counsel as to whether a particular matter should be referred, for further investigation, to another agency having the primary investigatory jurisdiction for the criminal statute involved.

(2) After completion of an investigation. Upon receipt of a criminal investigation report, counsel shall review it to determine whether there is sufficient evidence of a criminal violation to warrant referral of the case for prosecution.

A. When counsel determines that no further investigation is needed and that the evidence indicates a possible criminal violation, counsel shall refer the investigation report, including all of the available evidence, to the appropriate U.S. Attorney with a recommendation for criminal prosecution. The referral letter should advise the U.S. Attorney of any impact the violation could have on the performance of FAA functions and the extent to which a criminal prosecution would be important to FAA in carrying out its programs. Counsel shall offer to assist in the preparation and trial of the case.

B. When an investigation report contains evidence of violations that warrant FAA enforcement action (civil penalty, certificate action, order of compliance, etc.), in addition to evidence of a criminal violation, counsel shall, when referring the case for criminal prosecution, ask the U.S. attorney whether FAA may proceed with its enforcement action without prejudice to the criminal case.

(i) When the issuance of an emergency order (under the FA Act) or an order of immediate compliance (under the HMT Act) is required for aviation safety, such action shall be coordinated with the U.S. Attorney handling the criminal case.

(ii) In other types of cases, FAA enforcement action should be delayed, when requested by the U.S. Attorney, but the U.S. Attorney should be asked to expedite handling of the criminal case.

1215.-1299. RESERVED.

FIGURE 12-1. SAMPLE NOTICE OF PROPOSED CERTIFICATE ACTION
(Federal Aviation Act)

April 5, 1988

88GL140000

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Captain Jonathan V. Doaks
25 Duval Drive
East Miami, Illinois

NOTICE OF PROPOSED CERTIFICATE ACTION

Take notice that upon consideration of the report of investigation, including a statement of February 8, 1988, made on your behalf by Mr. D. R. Roe, Senior Vice President, Flight Operations, Jones Airlines, it appears that you violated the Federal Aviation Regulations by reason of the following circumstances:

1. You are now, and at all times mentioned herein were, the holder of Airline Transport Pilot Certificate No. 1000000.
2. On or about January 15, 1988, you acted as pilot in command of a Jones Airlines Boeing 720 aircraft operating on instrument flight rules in air transportation as scheduled Flight 13 from O'Hare International Airport, Chicago, Illinois, to Willow Run Airport, Ypsilanti, Michigan.
3. During the above-described flight, Flight 13 was instructed by air traffic control (ATC) to maintain an altitude of 8,000 feet.
4. Notwithstanding said instruction, Flight 13 descended to an altitude of about 7,400 feet, 600 feet below the assigned altitude.
5. Your operation of Flight 13, in the manner and under the circumstances described above, was careless so as to endanger the life and property of another.

By reason of the foregoing facts and circumstances, you violated the following Federal Aviation Regulations:

1. Section 91.75(b), in that, in an area in which air traffic control is exercised, you operated an aircraft contrary to an ATC instruction without obtaining an amended instruction; and

2. Section 91.9, in that you operated an aircraft in a careless or reckless manner so as to endanger the life or property of another.

Please take notice that by reason of the foregoing facts and circumstances and pursuant to the authority vested in the Administrator by Section 609 of the Federal Aviation Act of 1958, as amended, we propose to suspend your airline transport pilot certificate for a period of 30 days.

Unless we receive, in writing, your choice of the alternatives provided and set forth on the enclosed information form, on or before (date) , an order of suspension will be issued as proposed.

Assistant Chief Counsel

By:
Attorney

Enclosures

**FIGURE 12-2. SAMPLE INFORMATION SHEET TO ACCOMPANY
NOTICE OF PROPOSED CERTIFICATE ACTION**

**INFORMATION WITH RESPECT TO NOTICE
OF PROPOSED CERTIFICATE ACTION**

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Under 49 U.S.C. §§ 44701 et seq., any certificate holder who violates pertinent provisions of Chapter 447 of the statute, or any rule, regulation, or order issued thereunder, is subject to a certificate action to amend, modify, suspend, or revoke all or any part of a certificate issued under Chapter 447. The notice of proposed certificate action to which this information sheet is attached specifies the facts and regulatory and/or statutory provisions alleged to have been violated. The notice also states the specific certificate action the Administrator proposes to take.

This proceeding is governed by the Federal Aviation Regulations (FAR) set forth in 14 C.F.R. § 13.19. WITHIN FIFTEEN (15) DAYS AFTER YOU RECEIVE THIS NOTICE OF PROPOSED CERTIFICATE ACTION, you may elect to proceed in one of the five ways set forth below by marking the appropriate box(es) on the attached election sheet and returning it by mail or personal delivery to the address provided below. An explanation of each option is set forth below.

1. You may surrender your certificate on or before the date indicated in the notice of proposed certificate action. In this event, the order proposed in the notice will be issued at once, effective the date your certificate is surrendered or mailed to the office listed below. WHEN YOU SURRENDER YOUR CERTIFICATE PURSUANT TO THIS PARAGRAPH, YOU WAIVE YOUR RIGHT TO APPEAL TO THE NATIONAL TRANSPORTATION SAFETY BOARD, AS DESCRIBED IN PARAGRAPH 2, BELOW.

2. You may indicate your desire to have an order issued as proposed in the notice of proposed certificate action so that you may appeal to the National Transportation

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Safety Board (NTSB), as provided in 49 U.S.C. § 44709 and the NTSB's Rules of Practice (49 C.F.R. Part 821). This may be done by checking item no. 2 on the enclosed reply form or by not responding to the notice. PLEASE NOTE: You may elect, instead, to proceed at this time in accordance with option 3, 4 or 5, below, without waiving your right to appeal to the NTSB later.

If you appeal to the NTSB, an administrative law judge will be appointed to decide the case. At the hearing, held under 49 C.F.R. Part 821, the FAA will present witnesses and other evidence. You also will have the opportunity to present witnesses and other evidence. The FAA will have the burden of proof. If either party, the FAA or you, is dissatisfied with the judge's decision, that party can appeal that decision to the full Board. A further appeal, to the United States Courts of Appeals, is also available.

3. You may answer the charges in writing. You may submit, in writing, information and evidence demonstrating that a violation of the regulations was not committed or that, if it were, the facts and circumstances do not warrant the proposed sanction. The FAA will consider the information you provide in determining whether a certificate action should be taken and the extent of the sanction that should be imposed. You may also submit this information in conjunction with a request for an informal conference under paragraph 4. Electing this option will not affect your right to appeal to the NTSB later.

4. You may request an opportunity to discuss the matter with an FAA attorney by a telephonic informal conference, or at an in-person informal conference at one of the following locations: an FAA regional office; the FAA Aeronautical Center in Oklahoma City; the FAA Southern Region Branch Office in Orlando, Florida; or FAA Headquarters in Washington, DC. A list of the addresses of

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these offices (hereafter referred to as "the Informal Conference Location list" or "the list") is attached to the enclosed reply form.

A request for an in-person informal conference at any of the offices on the Informal Conference Location list will be granted, regardless of whether the office you choose is the office that issued the notice to which this information sheet is attached.

If you choose an office on the Informal Conference Location list other than the office that issued the notice, the case ordinarily will be transferred to the office you request for full disposition and handling in accordance with the FAA's existing transfer policy, which is set forth in paragraph 208(e) of FAA Order No. 2150-3A, *provided that*

- (1) a transfer is in the public interest, and
- (2) the transfer is to an office more convenient to your domicile or principal place of business.

When conditions (1) and (2) are not present, the case will be transferred to the office you request for purposes of the informal conference only. Moreover, the office receiving the case only for purposes of the informal conference will consult and coordinate with the office that issued the notice before settling or otherwise disposing of the case after the informal conference.

You also may request an in-person informal conference at an FAA office other than those on the Informal Conference Location list. If you do so, you should indicate on the response form your reason for requesting that particular location. NOTE: Requests for in-person informals at locations not on the list will be granted only in very limited circumstances. You should not, therefore, expect to have an in-person informal conference at a location other than those on the list. The FAA attorney assigned to your case has discretion to grant a request for an in-person

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informal conferences at a location other than those on the list only when (1) because of unusual circumstances, the public interest is better served by holding an in-person informal conference at such location, or (2) an in-person informal conference can be scheduled to coincide with other previously scheduled business at the location requested. In addition, the FAA attorney must be able to schedule the conference within approximately 90 days of the date you request an informal conference. Because of these restrictions, you are requested to indicate both the FAA office you prefer and one of the offices from the Informal Conference Location list.

To elect a telephone informal conference, choose option 4.a. on the reply form. To elect an in-person informal conference at one of the locations on the Informal Conference Location list, choose option 4.b. To elect an in-person informal conference at a location other than those on the list, choose option 4.c.

IF YOU REQUEST AN INFORMAL CONFERENCE WITH AN FAA ATTORNEY, DO NOT ALSO REQUEST AT THIS TIME THAT AN ORDER BE ISSUED AS PROPOSED IN THE NOTICE OF PROPOSED CERTIFICATE ACTION IN ORDER TO APPEAL IMMEDIATELY TO THE NTSB. Your selection of an informal conference will not affect your right to appeal to the NTSB later.

IMPORTANT: The informal conference is intended to provide you with an opportunity to present your reasons why the FAA should not proceed with the action as proposed. It also is intended to provide you with an opportunity to present any supporting documentation or information you wish the FAA to consider before the agency decides whether to proceed with the proposed action.

5. If you are an individual and have filed an FAA Aviation Safety Report with the National Aeronautics and Space Administration (NASA) concerning the incident or occurrence set forth in the attached notice of proposed

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certificate action, you may be entitled to a waiver of any penalty. THIS PROGRAM DOES NOT APPLY TO VIOLATIONS OF FEDERAL RULES GOVERNING CIVIL AVIATION SECURITY, SUCH AS CARRYING WEAPONS ON AN AIRCRAFT. You may present evidence of entitlement to a waiver of penalty under the ASRP in connection with options 2, 3, or 4, above, or you may present it separately, under this option (i.e., option 5). YOUR CLAIM OF ENTITLEMENT TO A WAIVER OF PENALTY UNDER THIS OPTION CONSTITUTES YOUR AGREEMENT THAT AN ORDER OF SUSPENSION MAY BE ISSUED WITHOUT FURTHER INFORMAL PROCEEDINGS BEFORE THE FAA. In the event that you prove you are entitled to a waiver of penalty, the order will be issued finding you in violation but imposing no certificate suspension. Following issuance of the order, you will have the right to appeal the order to the National Transportation Safety Board under the provisions of 49 U.S.C. § 44709 regardless of whether the FAA accepts your claim to a waiver of penalty or not. You will be entitled to a waiver only if all of the following are found:

a. That this violation was inadvertent and not deliberate;

b. That this violation did not involve a criminal offense, or accident, or disclose a lack of competency or qualification to be the holder of a certificate;

c. You have not paid a civil penalty pursuant to 49 U.S.C. § 46301 (formerly Section 901 of the Federal Aviation Act) or been found in any prior FAA enforcement action to have committed a violation of 49 U.S.C. §§ 40101, et seq. (formerly the Federal Aviation Act), or any regulation adopted pursuant to 49 U.S.C. §§ 40101, et seq., for a period of 5 years before the date of the occurrence; and

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d. You prove that within 10 days after the violation, you completed and delivered or mailed a written report of the incident or occurrence to NASA under the Aviation Safety Reporting Program.

Address all communications in this matter to:

Assistant Chief Counsel
Federal Aviation Administration
Address

If the certificate holder is an individual:

PRIVACY ACT NOTICE

This notice is provided in accordance with Section (e)(3) of the Privacy Act, 5 U.S.C. § 552a(e)(3), and concerns the information requested in the letter or form with which this Notice is enclosed.

A. Authority. This information is solicited pursuant to 49 U.S.C. §§ 40101, et seq., and regulations issued thereunder, codified in Part 13 of Title 14 of the Code of Federal Regulations. Submitting the telephone number is voluntary. The request for information is intended to provide you with an opportunity to participate in the investigation.

B. Principal purpose. The requested information is intended to assist us in contacting you regarding this enforcement case.

C. Routine uses. Records from this system of records may be disclosed in accordance with the routine uses set forth in System of Records No. DOT/FAA 847, as published from time to time in the Federal Register.

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D. Effect of failure to respond: If you do not provide the requested information, there may be delay in contacting you regarding this enforcement case.

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